IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.445 OF 2005
IN
NOTICE OF MOTION NO.1319 OF 2005
IN
SUIT NO.1211 OF 2005

M/s.Rado Construction — Appellant
vs.
Mr.Bankaprasad B. Gupta — Respondent

Mr.Pravin Samdani with Ms.Soumya Srikrishna with
Ms.Payal Daftari, Ms.Ketki Tung, Luckyray Indorkar i/b.
M/s.Shaunak Satpute & Co. for the appellant.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 13th June 2005

P.C.

Heard.

2. The appeal is directed against the order dated 4th May 2005 passed by the learned motion Judge whereby he declined to pass any ad-interim order until service of notice of motion upon the defendant.

3. Having considered the matter, we are of the view that the impugned order does not call for any interference and it is always open to the plaintiff (present appellant) to apply for ad-interim order as soon as the notice is served upon the defendant (present

respondent). If the defendant has been served with the notice of motion, the plaintiff may apply to the learned motion Judge for ad-interim relief and if the defendant has not been served so far, on service of notice of motion upon the defendant, the plaintiff may apply for ad-interim order before the learned motion Judge.

4. With the aforesaid observation, the appeal is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)